

R590. Insurance, Administration. (Effective 1-31-06)**R590-98. Unfair Practice in Payment of Life Insurance and Annuity Policy Values.****R590-98-1. Authority.**

This rule is adopted pursuant to Section 31A-2-201 which empowers the commissioner to make rules necessary to implement Title 31A, and pursuant to Section 31A-23a-402(8), which allows the commissioner to define methods of competition and acts and practices found to be unfair or deceptive.

R590-98-2. Scope.

This rule shall apply to all persons transacting insurance under Title 31A.

R590-98-3. Purpose.

The purpose of this rule is to require a prompt response to policyholder requests for policy values and limit the exercise of the statutory deferral option to situations in which the financial stability of the insurer is at risk.

R590-98-4. Definitions.

In addition to the definitions in Section 31A-1-301, the following definitions apply for the purpose of this rule:

A. "Policy Values" means the values to which the policyholder is entitled upon request for policy loans, withdrawals, or the surrender of the policy and include cash values, accumulated dividends, coupons and other values of a similar nature.

B. "Deferral" means the withholding or delay in payment of policy values to the policyholder.

C. "Deferral" does not include the withholding or delay in payment to a policyholder of variable life insurance and variable annuity payments when the value of investment assets on which payments are based cannot be obtained because:

- (1) the Securities and Exchange Commission (SEC) has restricted trading;
- (2) the stock exchange is closed; or
- (3) the SEC permits deferral to protect the policyholder.

D. "Policyholder" shall include, in addition to the definition in 31A-1-301, a certificate holder under a group policy.

R590-98-5. Unfair or Deceptive Acts or Practices.

The following are hereby defined as unfair or deceptive acts or practices:

A. Failing to comply with a policyholder request for policy values within 20 days of receipt of such request.

B. Exercising the nonforfeiture deferral option of Section 31A-22-408(2), 31A-22-409(3)(d), or 31A-22-420(5), in response to a request for policy values unless the financial stability of the insurer is at risk.

R590-98-6. Requirements.

A. Before an insurer exercises the right to defer the payment of any policy values, the insurer must file a written request with the commissioner. The request must include an explanation of the reason for such action, the steps to be taken by

the company to alleviate the situation, the manner in which the deferment is being imposed fairly and equitably on all policyholders, the notice to policyholders as to why the company is taking such action and the anticipated date on which the policy values are expected to be available.

B. If the policy does not specify policy values between policy anniversaries, such policy values may be the values shown in the policy nonforfeiture value tables as of the end of the policy year or may be computed by the interpolation of values between policy years. If the former method is used, the company may deduct from the policy value any premiums required to pay the policy to the next succeeding anniversary date. In no event, may premiums be deducted that will advance the paid-to date past the next succeeding anniversary date.

C. No surrender or service charge assessed by the company will be deducted from the policy values unless specifically provided in the policy.

D. With consent of the policyholder, companies may process a policy loan in lieu of cash surrender as a means to conserve business, but only if the following criteria are strictly adhered to:

(1) The computation of policy values and premium deductions, if any, will be calculated on the same basis as enumerated in B above.

(2) The policyholder must be informed fully and concisely as to the reasons the company is sending the proceeds of a policy loan as opposed to the cash surrender value, an explanation as to the effect the loan will have upon interest charges, premiums, and death benefits, and the procedures for the repayment of the loan.

(3) If a policy loan check is issued in lieu of cash surrender values, the loan shall be processed within 20 days of receipt of the request to surrender. The check for policy loan values must be immediately negotiable. A stamped, self-addressed envelope and a cash surrender form must accompany the loan value check, together with appropriate instructions as to how the policyholder should proceed to obtain the full policy surrender value. A request for the balance of the cash surrender value must be processed within ten days of receipt of such request.

R590-98-7. Penalty.

Insurers found in violation of this rule shall be subject to revocation of the Certificate of Authority or such other penalty as determined by the commission in accordance with law.

R590-98-8. Separability.

If any provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.

R590-98-9. Enforcement Date.

The commissioner will begin enforcing the revised provisions of this rule 45 days from the effective date.

KEY: insurance law

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Amendment Effective 1-31-06

Notice of Continuation April 28, 2004

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